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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/091,651

03/05/2002

Brady R. Dow

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06/03/2009

HAMILTON, DESCANTIS & CHA (GENERAL)

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F5-301

LITTLETON, CO 80123

EXAMINER

BADII, BEHRANG

ART UNIT

PAPER NUMBER

3694

MAIL DATE

DELIVERY MODE

06/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: BRADY R. DOW

Application No. 10/091,651
Technology Center 3600

Mailed: June 3, 2009

Before ERIC W. HAWTHORNE, *Supervisory Paralegal Specialist*
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 8, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S ANSWER, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed December 9, 2008 under the heading "Grounds of rejection" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8th ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds a new Ground(s) of Rejection that has not been provided the required heading "New Grounds of Rejection" and/or which does not include the approval of the TC Director or his/her designee.

Specifically, the Examiner's Answer sets forth a rejection of claims 12-23, 24, 2-4, 25 and 6-11 as being rejected under 35 U.S.C. 112, second paragraph; whereas the last Office action, including any mailed Advisory Action(s) finds that only claims 12, 24, and 25 are rejected under 35 U.S.C. 112, second paragraph. Correction of all Grounds of rejection for all claims is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) to vacate the Examiner's Answer mailed December 9, 2008;
- 2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection and to correct other sections of the Answer as may be required;
- 3) and to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWB/PEB

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